



House Bill No. 5801

Public Act No. 06-16

AN ACT CONCERNING TRUTH IN MUSIC ADVERTISING.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective July 1, 2006*) (a) As used in this section:

(1) "Performing group" means a vocal or instrumental group seeking to use the name of another vocal or instrumental group that has previously released a commercial sound recording under that name;

(2) "Recording group" means a vocal or instrumental group at least one of whose members has previously released a commercial sound recording under that group's name and in which the member or members have a legal right by virtue of use or operation under the group name without having abandoned the name or affiliation with the group;

(3) "Sound recording" means a work that results from the fixation on a material object of a series of musical, spoken or other sounds, regardless of the nature of the material object, such as a disk, tape, phonograph record or other media, in which the sounds are embodied.

(b) No person may advertise or conduct a live musical performance or production in this state through the use of a false, deceptive or

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misleading affiliation, connection or association between a performing group and a recording group. This subsection shall not apply if any of the following apply:

(1) The performing group is the authorized registrant and owner of a federal service mark for that group registered in the United States Patent and Trademark Office;

(2) At least one member of the performing group was a member of the recording group and has a legal right by virtue of use or operation under the group name without having abandoned the name or affiliation with the group;

(3) The live musical performance or production is identified in all advertising and promotion as a salute or tribute;

(4) The advertising does not relate to a live musical performance or production taking place in this state; or

(5) The performance or production is expressly authorized by the recording group.

(c) If the Attorney General has reason to believe that any person is advertising or conducting, or is about to advertise or conduct, a live musical performance or production in violation of subsection (b) of this section and that action against such person would be in the public interest, the Attorney General may seek a temporary or permanent injunction to restrain such advertising or conduct.

(d) If a court issues a permanent injunction pursuant to subsection (c) of this section, the court may, in its discretion, direct that the person subject to the injunction restore to any person in interest any moneys or property, real or personal, which may have been acquired by means of any violation of subsection (b) of this section, subject to the terms and conditions established by the court.

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(e) Any person who violates subsection (b) of this section shall be subject to a civil penalty of not less than five thousand dollars nor more than fifteen thousand dollars per violation, which shall be in addition to any other relief which may be granted under subsection (d) of this section. Each performance or production prohibited under subsection (b) of this section shall constitute a separate violation.

Approved May 2, 2006